

In the Matter of Merchant Mariner's Document No. DZ-28485-D2 and all  
Issued to: SAMUEL V. SAMANO

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1228

SAMUEL V. SAMANO

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 16 February 1960, an Examiner of the United States Coast Guard at New York, New York revoked Appellant's seaman documents upon finding him guilty of misconduct. The two specifications found proved allege that while serving as a bedroom steward on board the United States SS UNITED STATES under authority of the document above described, on or about 14 August 1959, Appellant wrongfully placed a hand on Mrs. Laura Becker, a passenger, and he wrongfully entered a passenger area.

At the hearing, Appellant was represented by counsel. Appellant entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence the testimony of Mrs. Becker and the tourist class night steward. He also submitted in evidence a certified copy of an entry in the ship's Official Logbook pertaining to the alleged offenses together with attached statements by Mrs. Becker, the night steward, the tourist class Chief Steward and the Junior Assistant Purser.

Appellant's defense consisted of the testimony of the tourist class Assistant Chief Steward. He commended Appellant very highly for his work on the ship.

At the end of the hearing, the Examiner rendered the decision in which he concluded that the charge and two specifications had been proved. The Examiner then entered an order revoking all documents issued to Appellant.

FINDINGS OF FACT

On 14 August 1959, Appellant was serving as a bedroom steward on board the United States SS UNITED STATES and acting under authority of his document while the ship was at sea after departing from New York.

Appellant entered the stateroom of Mrs. Laura Becker (age 39),

a tourist class passenger, on the afternoon of this date. Having previously informed Mrs. Becker that he was her room steward, Appellant spoke to Mrs. Becker. He then sat on the bed and started to rub or stroke her back with his hand. Mrs. Becker left the room.

About 2100, Mrs. Becker asked the night steward to show her how to lock her door from the inside because she has been annoyed by Appellant. The latter was in the vicinity when the night steward showed Mrs. Becker how to lock the door. The night steward told Appellant to stay away from Mrs. Becker's door. There was no safety chain on the door. After the night steward left, Appellant opened the door with his passkey and entered the room. He asked Mrs. Becker what was wrong. When Appellant realized that she was very nervous, he left the room.

Mrs. Becker went to the Purser's officer at approximately 2130 and told the Junior Assistant Purser about the two incidents related above. Appellant was logged and removed from all duties in passenger areas.

Appellant has no prior record.

#### BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that:

1. Mrs. Becker's testimony is not only uncorroborated but it is also confused as to when the first alleged offense took place. There is no evidence that it was about 1500 as alleged in the specification.
2. Appellant was not given a copy of the log entry to use in the preparation of his defense.
3. The order of revocation is excessive in view of the evidence which shows that the alleged offenses do not involve "moral turpitude."

APPEARANCE:      Zwerling and Zwerling of New York City, by Irving Zwerling,  
Esquire, of Counsel.

#### OPINION

Although corroboration is not considered to be an essential element to meet the test of substantial evidence in these proceedings, independent evidence of complaints, without details, in cases of this type is admissible and constitutes corroborating evidence. Commandant's Appeal Decision No. 1185. There is such evidence of complaints by Mrs. Becker to both the night steward and the Junior Assistant Purser. Furthermore, Mrs. Becker was not a young girl, as in the cases cited by Appellant, but a mature woman of 39 years and there is no indication in the record of any motive for fabrication on her part. Admittedly, there is some confusion in her testimony as to when the first

incident occurred. On the other hand, she very emphatically testified, when asked if it were possible that she was imagining these things:

"I don't imagine when this man [Appellant] got his hand on my back."

As to the time of the first offense, the logbook entry (based on the Executive Officer's investigation) establishes that it was sometime during the afternoon of 14 August. This is adequate in an administrative proceeding where the proof need not adhere strictly to the wording of the specification. Commandant's Appeal Decision No. 944.

Whether Appellant was on duty at the time of the second offense is immaterial. He entered Mrs. Becker's room, by means of a passkey, at a time when there is no indication that he had any duties to perform in her room. This constituted wrongfully entering a passenger area.

Concerning the issue of whether Appellant had a copy of the logbook entry to assist in the preparation of his defense, there is no showing in the record that Appellant or his counsel were ever denied a request for a copy of the entry. Counsel knew about the entry and was given an opportunity to read it when it was introduced at the hearing before any testimony was taken.

The question of whether Appellant's misconduct involved "moral turpitude" is not in issue. For more than a century, our courts have held that a passenger's right to complete personal privacy should be inviolate. However, the order of revocation will be modified in view of Appellant's clear record.

### ORDER

The order of the Examiner dated at New York, New York on 16 February 1960, is MODIFIED to provide for a suspension of twelve (12) months.

J. A. Hirshfield  
Vice Admiral, United States Coast Guard  
Acting Commandant

Signed at Washington, D. C., this 14th day of April 1961.